

Application No. 10/028,978  
Amendment dated February 8, 2006  
First Preliminary Amendment with RCE

Docket No.: 21994-00036-US

### REMARKS

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant's attorney thanks the Examiner for discussing the application in a phone interview on February 7, 2006. The following remarks summarize the discussion.

The Office Action and prior art relied upon have been carefully considered. The previously submitted claims were all rejected under 35 USC 103(a). In an effort to expedite the prosecution claims 10-15 have been cancelled and dependent claim 16 has been added.

A major feature of the present invention relates to the nature of the land section wobble, wherein the land section has a wobbled shape corresponding to a signal to be recorded on the land section resulting from the modulation of a phase modulated wave that is further modulated by a single frequency wave. This is discussed paragraph [0082] in pages 45 and 46.

On the other hand, Ko et al. (US 6,813,230) teaches that a land recording signal is composed of land address data and a phase shifted wobble signal (Fig. 10). As shown in Fig. 10, a wobble signal generated by the wobble signal generator 100 is phase shifted by 90 ° by the phase shifter 102 and inputted into the PSK modulator 106. The PSK modulator 106 multiplies land address data of "1" or "- 1" by the 90 ° phase-shifted wobble signal and produces the land recording signal, which is a BPSK-modulated signal (Column 10, lines 35-58). However, The PSK modulator 106 just modulates a phase of a wobble signal. Just modulating a phase of a wobble signal is apparent from a signal outputted from the PSK modulator 106 as the signal is a BPSK-modulated signal. In

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other words, referring to Fig 10 of the reference the PSK modulator 106 does not output a signal to be recorded on the land section resulting from the modulation of a phase modulated wave that is further modulated by a single frequency wave as set forth in the amended claims.

According to McGraw-Hill's "Dictionary of Scientific and Technical Terms" (third edition), in page 181, the term "binary phase-shift keying (BPSK)" is defined as follows: Binary phase-shift keying [COMMUN] Keying of binary data or Morse code dots and dashes by  $\pm 90^\circ$  phase deviation of the carrier. Abbreviated BPSK. The BPSK modulation is a modulation method of keying (shifting) a phase of a carrier (wobble signal) by  $\pm 90^\circ$  or  $180^\circ$ .

Further, in Column 8, lines 45-59, Ko et al. teaches that a bandwidth of a modulated signal (wobble signal) having a frequency of fw changes in response to the period Tpid of PID data. Changing a bandwidth is completely different from changing the frequency fw of the wobble signal.

Consequently, the land recording signal disclosed in Ko et al. is not comparable to the signal to be recorded on a land section as defined in the amended claims.

Regarding the remaining references cited by the Examiner, Ohgo (US 6,269,072), Takeda (US 6,512,735), Yamamoto (US 6,721,259) and Tsukihashi (US 6,496,458) fail to disclose or teach that a land section is wobbled as discussed above.

Therefore, applicant believes the outstanding rejection should be withdrawn since none of the references taken singly or in any reasonable combination teach or suggest the limitations of the current claims.

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In *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984), the Court mandated:

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. (Emphasis in the original).

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

The Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to CBLH Deposit Account No. 22-0185, under Order No. 21994-00036-US from which the undersigned is authorized to draw.

Dated: February 8, 2006

Respectfully submitted,

By

  
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